



Division of Global Migration and Quarantine
Centers for Disease Control and Prevention
U.S. Department of Health and Human Services
Attn: Part 34 NPRM Comments,
1600 Clifton Road, N.E.,
MS E-08
Atlanta, GA 30333

Docket ID: CDC-2008-0001

Docket Title: Medical Examination of Aliens – Removal of Human Immunodeficiency Virus (HIV)
Infection from Definition of Communicable Disease of Public Health Significance
RIN: 0920-AA26

Brussels, Belgium & Berlin, Germany, August 16, 2009

Dear Secretary Sebelius:

We strongly support the proposed rule that would lift the immigration ban on visitors and immigrants living with HIV, stop unfair mandatory HIV testing of immigrants and remove references to HIV from the scope of examinations in HHS regulations. We are convinced this change will restore the U.S. as a leader in human rights, equal treatment under the law and public health.

As treatment and human rights activists, we are delighted to see your effort to change the current policy. There is no scientific or public health rationale for keeping HIV on the list of communicable diseases of public health significance. We are pleased to see that scientific knowledge counts more than prejudices and resentment towards people living with HIV.

The United States is among the 60 countries with discriminatory entry, stay and residence restrictions on people with HIV and one of 14 that have the most draconian policies. It is also the country where the impact of current practice is the most significant. If the United States moves away from the current policy, it will be seen as a very strong message to other countries and a positive step towards a better world for people with HIV.

We have been advocating for many years for such a change, and there was time when we feared that it would never happen. We are excited about your efforts to overturn the entry ban. Allow us to be more specific on why we believe this to be a good and important decision.

Health expenditures and entry restrictions

It is often argued that closing borders to people living with HIV is justified by fears of increased health expenditures. This argument neglects the fact that HIV treatment is cost-effective even in developing countries, and that people living with HIV can contribute enormously to the growth and prosperity of society. People with HIV who are on treatment have similar physical and professional capacities to people without HIV. People with HIV who are able to secure legal residence status pay income taxes like anyone else in the country.

Furthermore, the argument that immigrants in need of health care would swamp the borders to access treatment in a country without entry restrictions is a myth. Countries with good treatment coverage like Brazil report a different experience. Brazil is surrounded by countries where access to treatment is much more limited, but has not reported problems with foreigners seeking care and threatening its health budget. The same can be observed in Western Europe; free right of movement without consideration of health status to citizens from the Eastern Europe has had no impact on health expenditures, and no Western European country felt the need to change its practice. The cost-factor argument for closed borders reflects negative attitudes toward people living with HIV and is not justified by reality.

Public Health and how HIV can be prevented

There is no public health justification for restricting entry and residence for people living with HIV/AIDS. This has been reiterated by UNAIDS, the WHO and the findings of the International Task Team on HIV Related Travel Restrictions. The assumption that the spread of HIV can be stopped at borders is wrong. There is not a single country in the world that succeeded in stopping HIV by closing its borders to foreign citizens with HIV. Rather the opposite seems to be true, if we compare infection and incidence rates of countries with exclusionary policies with those integrating people living with HIV/AIDS as partners in the fight against the disease. It cannot be stated often enough that exclusionary policies at borders drive people away from health care services and programmes. There is scientific evidence showing that the current US policy leads to dangerous treatment interruptions that can result in higher viral loads in visitors with HIV¹. Potential immigrants are excluded from moving to the U. S. for a disease that is no more difficult to treat than diabetes. Excluding HIV-positive people from immigration is therefore discriminatory. We congratulate your efforts to change your entry policies so that they align with public health evidence and globally accepted standards.

Human Rights, entry and residence regulations for people living with HIV

HIV-related restrictions on entry, stay and residence are discriminatory by nature and enhance the vulnerability of people with HIV. These restrictions violate and interfere with the right to privacy (freedom from disclosure at borders), liberty (freedom of movement), life (access to treatment and care), work and education (viability as workers, interns and students), information and participation (ability to be fully involved in civic life, attend meetings and conferences, etc., without discrimination). We congratulate your current efforts to assure these basic rights for people living with HIV.

The GIPA Principles

HIV-related entry and residence regulations violate basic principles aimed at reducing the stigma and discrimination against people living with HIV, notably the "Greater Involvement of People with AIDS" GIPA principles, designed to lead to a greater involvement of people living with HIV in the fight against HIV. The importance of the involvement of people living with HIV has been confirmed by governments in 2001 in the Declaration of Commitment on HIV/AIDS and in 2006 in the Political Declaration on HIV/AIDS, adopted unanimously by UN Members States at the close of the United Nations General Assembly High Level Meeting on AIDS in New York. We congratulate your efforts to change your entry policies to meet these commitments.

¹ Ponnusamy K et al. A study of knowledge attitudes and health outcomes in HIV positive patients following travel to the United States of America. 9th EACS, abstract 10.1/2, 2003



Mandatory disclosure of HIV status by crossing borders

The main hurdle for people living with HIV intending to enter the United States and/or adjust their immigration or residency status relates to the fact that they are forced to disclose their HIV status. We need to bear in mind that HIV is still closely linked to discrimination and stigmatisation. There are many examples of the outing of someone's HIV status having a devastating impact on the concerned individual and his or her family.

The current U.S. practice outs people with HIV to U. S. consular staff and immigration officials of every other country they might enter thereafter. We urge you to respect the right to privacy of every person entering your country and NOT to ask for HIV status disclosure. This is especially important for citizens from countries whose residents need a U. S. visa. Green card and visa applicants should not be required to undergo HIV testing. There is no rationale to single out HIV status from other chronic conditions. If entry is refused on such grounds, applicants can be subjected to discrimination and stigma in their home countries, which could become a threat to their career prospects, personal life or even personal safety.

Again, we congratulate your efforts and are looking forward to a decision that reflects the standards, values and ethical principles of a free nation. A courageous move from the United States will make America an example and support us in our fight opposing discrimination against people with HIV in other countries, including those in Europe.

Sincerely yours,

European AIDS Treatment Group

Deutsche AIDS-Hilfe e.V.

About European AIDS Treatment Group

Established in 1992, the European AIDS Treatment Group (EATG) is a European network of nationally-based activists. As a European patient-led advocacy organisation, it has been at the forefront of the development of the civil society response to the HIV/AIDS epidemic in Europe. EATG produces the Global Database on HIV-specific travel restrictions in collaboration with Deutsche AIDS-Hilfe and the International AIDS Society, www.hivtravel.org.

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About Deutsche AIDS-Hilfe e.V.

The Deutsche AIDS-Hilfe e.V. (DAH) is an AIDS service organisation in the field of structural HIV/AIDS prevention. Founded in 1983, the Deutsche AIDS-Hilfe e.V. with its more than 120 member organisations, is the largest HIV/AIDS self-help association in Germany today. DAH produces the Global Database on HIV-specific travel restrictions in collaboration with the European AIDS Treatment Group and the International AIDS Society, www.hivtravel.org

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